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IN THE  
**SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1940

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**No. 470**

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R. P. FARNSWORTH & COMPANY, INC.,  
Petitioner,

*versus*

ELECTRICAL SUPPLY COMPANY,  
Respondent.

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**REPLY BRIEF ON BEHALF OF PETITIONER, R. P.  
FARNSWORTH & COMPANY, INC.**

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*To the Honorable Supreme Court of the United States:*

This brief is written as a reply to a new issue injected in this cause by respondent and one which could not have been anticipated when petitioner filed its original brief.

**ARGUMENT.**

**I.**

Counsel for respondent contend that petitioner has not, *in the petition*, made any statement "disclosing the basis upon which it was contended that this Court has

jurisdiction to review the judgment and decree" of the lower court, nor has it set forth "the question presented."

In this they are clearly in error.

We have not, *in the petition*, indulged in argumentative pleading or conclusions of law to show the "basis upon which we contend this Court has jurisdiction to review the judgment", nor upon the "question presented". We have confined *our argument* upon these issues *to the brief*.

In drafting the petition, we were meticulous to *set out the facts* which are the basis of our contention that this Court has jurisdiction to review said judgment. We followed Rule 12, paragraph 1. The *facts* set out in the petition are:

1. The judgment to be reviewed is a final judgment of the United States Circuit Court of Appeals for the Fifth Circuit. (Petition, page 4).

2. The suit involved the interpretation of a Federal Statute. We have referred to the statute, we gave the volume and page where the statute may be found, and quoted its "pertinent provisions". (Petition, pages 1 and 2).

3. A rehearing was refused on July 2nd, 1940. (Petition, page 4). This allegation was solely to show application was filed in this Court within three months and the Court, therefore, has jurisdiction to entertain same.

4. The nature of the case and the rulings of the Court. (Petition, pages 2, 3 and 4).

5. Specification of "the stage of the proceedings in the court of first instance and the Appellate Court" at which and the manner in which the questions sought to be reviewed were raised. (Petition, pages 3 and 4).

6. "The way in which they were passed upon by the Court" with a summary of same and "specific reference to the places in the record where the matter appears". (Petition, pages 3 and 4).

7. That the holding by the Court of Appeals was in conflict with the applicable decisions of this Court and created a conflict with the decisions of the Courts of Appeal for the Second, Fourth, Sixth, Eighth and Ninth Circuits. (Petition, page 5).

In other words, we have stated in the petition allegations of *fact* which Rule 12, paragraph 1, states should be set forth. We do not understand that under the Rules a label or heading is necessary so long as the statement of facts in the petition are the sacramental facts required by Rule 12, paragraph 1. It was our endeavor to make the petition as brief as possible and avoid unnecessary repetition. In the brief we drew our conclusions from the factual statements set forth in the petition.

On the point that the petition fails to state the "question presented", we state on page three of the petition:

"The question involved is whether 'performance and final settlement' of the contract between R. P. Farnsworth & Company, Inc., and the United States took place on or prior to July 2nd, 1932, when the Assistant Secretary of the Treasury determined the balance due Farnsworth under

the contract and directed the payment of all said balance except \$82.80, or on July 28th, 1934, when the Director of Procurement reviewed the record and recommended the payment of this \$82.80, which had been retained."

We do not know how the "question presented" could have been more clearly set forth.

II.

No reply to the argument made by respondents on the merits is necessary for the reason that the decisions of this Court and the respective Courts of Appeals cited in our brief filed with the petition are complete answers to the contentions of counsel for respondent.

Respectfully submitted,

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